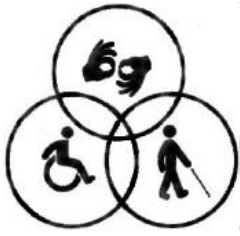


Summer 2005



# **Disability Services Beacon**

Information and Resources from the  
Fairfax Area Disability Services Board

## **Reasonable Accommodations and Housing**

In many cases, people with disabilities need accommodations to enjoy their homes. Single-family homeowners are responsible for making changes to their homes, but there are laws and policies that govern what and how accommodations are made in condominiums, apartments, and housing programs receiving federal assistance.

The main laws relevant to housing are Section 504 of the Rehabilitation Act of the 1973, the Fair Housing Act, and Title II of the Americans with Disabilities Act (ADA). All these laws are in

essence amendments to the Civil Rights Act, and therefore treat a person with a disability's access to and use of housing as a civil right.

Public housing authorities such as the Fairfax County Department of Housing and Community Development have an obligation to accommodate people with disabilities by making physical modifications to their units or common spaces or changes to their policies or practices that would allow persons with disabilities to use and enjoy their homes. Private landlords, condominium associations, and other private housing providers also have a responsibility to accommodate people with disabilities, but they may not be responsible for paying for physical modifications.

Listed below are summaries of federal disability laws that apply to housing and the answers to some common questions about making reasonable accommodations when providing housing to people with disabilities.

**Title VIII of the Civil Rights Act of 1968 (Fair Housing Act),** as amended, prohibits

discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status and disability (handicap is the word in the statute). Portions of the Fair Housing Act, such as non-discriminatory lending practices, apply to all residences, including single family homes.

**Section 504** prohibits discrimination based on disability in any program or activity receiving federal financial assistance, such as housing authorities receiving federal funds through the Department of Housing and Urban Development (HUD).

**Title II of the ADA** prohibits discrimination in services and programs offered by state or local agencies such as public housing authorities.

The Department of Housing and Urban Development (HUD), the federal agency which has responsibility for ensuring that public housing authorities comply with federal disability laws,

requires that reasonable accommodations be provided to people with disabilities.

### **What is a reasonable accommodation?**

A “reasonable accommodation” is a physical or policy modification to accommodate a person’s disability. For example, a person using a wheelchair could request a ramp or other accessible feature to use and enjoy his unit or common spaces in the building. A person who uses a service animal could request a reasonable accommodation to allow the service animal on a property that has a “no pets” rule.

Reasonable accommodations also include, for example, the provision of written materials in a different format for someone who can’t read print. Personal items or services, such as glasses or the care of a service animal, are not considered reasonable accommodations.

### **How does a person request a reasonable accommodation?**

All public housing authorities are required to provide reasonable accommodations. Fairfax

County has written policies concerning when to offer an accommodation, which is generally when people apply for housing, when applicants are accepted for housing, when tenants recertify housing, and when any adverse action is taken against a tenant. However, it is the applicants' responsibility to make known a need for an accommodation. If assistance is needed, the request should be made in writing, since making it in writing provides a record of the request. Fairfax County has specific forms to request accommodations in their housing programs. A physician or other professional (psychiatrist, social worker, or psychologist, for example) will be required to verify the need for a reasonable accommodation. However, no one can ask about the nature of the disability or for any personal medical information that is not directly related to the request for accommodation. Nor can copies of personal medical records be required.

The same general rules apply when requesting reasonable accommodations from private landlords and condominium associations. They cannot deny a valid request for a reasonable

accommodation, but in most cases they can ask the tenant to pay both for the modification itself and returning the unit to its former condition when leaving.

### **Do housing authorities, landlords, and condominium associations have to grant every request?**

No. First, the person must have a covered disability as defined by Section 504 of the Rehabilitation Act of 1973, the ADA and the Fair Housing Act and there must be a connection between the disability and the accommodation. For example, it is reasonable for a person with a hearing impairment to request a doorbell that flashes when rung. But if this person requests a ground level unit because of the hearing impairment, that request does not need to be granted since there would be no relationship between the disability and the requested accommodation.

A public housing authority can also deny a request if it determines that the request is a fundamental alteration of the program rules or it costs too much

to provide. A fundamental alteration means that it would drastically change the program. For example, a person's disability may prevent them from shopping for groceries. The person requests that staff assist her with this task as a reasonable accommodation. The public housing authority could deny this request because assisting with groceries is not a part of staff responsibilities. The public housing authority could suggest that the person order groceries by telephone or e-mail from the local grocery store, or take advantage of public and volunteer programs that help people shop.

### **Do the laws apply the same for every program?**

No. If a program is federally assisted or federal funds have been used to purchase the housing units, Section 504 applies and the PHA must provide and pay for the reasonable accommodation. Generally in Fairfax County this means that in public or rental housing the PHA has responsibility for paying for the accommodation. Additionally, the PHA is required to make 5% of its housing accessible to people with physical disabilities and 2% accessible to people with

sensory disabilities such as vision or hearing impairments.

Housing Choice Voucher recipients that rent from a private landlord will be allowed to make reasonable accommodations to a unit but the landlord is not required to pay for the modification. The landlord may request the tenant to pay for the modification and for its removal once the tenant leaves the property.

**Are personal care attendants living with a person with a disability allowed as an accommodation in federally funded programs?**

Yes. Furthermore, residents with disabilities in federally funded programs can request an additional bedroom for the personal care assistant and cannot be charged extra for the additional room. Residents in the Housing Choice Voucher program are provided a higher payment standard to help them pay for the additional room. In the public housing or Fairfax County rental programs, residents will be provided an additional room.



As with all accommodations, residents will need to prove the relationship between the request and the disability and have the need verified by physician, mental health therapist or social worker. In HUD programs the personal care assistant is called a live-in aide and there are HUD rules concerning who may serve as an aide. Housing workers can provide residents with the exact rules about live-in aides.

### **What if a request for a reasonable accommodation is denied?**

In Fairfax County, information about appealing a decision is provided when a person is notified of a denial. The DHCD has established a process for an informal hearing by Fairfax County staff not associated with the Department of Housing and Community Development but knowledgeable about the applicable laws. Residents denied accommodations who feel they have a reasonable request should always ask for a hearing, since the denial maybe due to incomplete information or unclear justification. Petitioners denied a request at the informal hearing can appeal the request

further by contacting the Fairfax County Human Rights Commission or HUD.

## **Contact Information**

### **Fairfax County Department of Housing and Community Development**

703-385-3662 TTY 703-385-3578

[www.fairfaxcounty.gov/rha](http://www.fairfaxcounty.gov/rha)

### **Department of Housing and Urban Development (HUD),**

Fair Housing & Equal Opportunity

800-669-9777, TTY 800-927-9275, [www.hud.gov](http://www.hud.gov)

### **Fairfax County Human Rights Commission**

703-324-2953, TTY 703-324-2900,

[www.fairfaxcounty.gov/hrc/](http://www.fairfaxcounty.gov/hrc/)

### **Virginia Fair Housing Office**

888-551-3247, 804-367-8530,

TTY 804-367-9753, [www.fairhousing.vipnet.org](http://www.fairhousing.vipnet.org)

**Fairfax Area  
Disability Services Board**

*At-Large:* Kim Callahan

*At-Large:* Tom Choman, Chair

*At-Large:* Robert Rudney

*At-Large:* Leslie Braunstein

*Braddock District:* Pam Barrett

*City of Fairfax:* Woody Witt

*City of Falls Church:* Anne Rohall, Secretary

*Dranesville District:* Lisa Fagan

*Hunter Mill District:* Vacant

*Lee District:* Kevin Hyde

*Mason District:* Stephanie Mensh

*Mount Vernon District:* David Norcross

*Providence District:* Vacant

*Springfield District:* Vacant

*Sully District:* Ann Pimley, Vice-Chair

## **Get Weekly Disability News**

Disability Services E-News is a listserv that keeps subscribers informed about resources and issues that affect people with physical and sensory disabilities.

The listserv sends out one brief e-mail each week. The listserv is the primary vehicle for publicly announcing meetings and activities of the Disability Services Board and will in the future tell you how to get online issues of the *Disability Services Beacon*.

To subscribe, simply go to [www.fairfaxcounty.gov/email/lists/](http://www.fairfaxcounty.gov/email/lists/). Fill in your e-mail address, click on the box before “Disability services and news,” and then click subscribe. You will be sent an e-mail asking you to respond in order to finish subscribing. You must respond to this e-mail and write “ok” in the body to complete the subscription.

## Disability Services Beacon

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Fairfax County is committed to nondiscrimination on the basis of disability in all county programs, services, and activities. This document is available in alternative formats upon request. Please call 703-324-5421 or TTY 703-449-1186, or send an e-mail to [disabilityservices@fairfaxcounty.gov](mailto:disabilityservices@fairfaxcounty.gov). Allow 7 working days for preparation of the material.

## **The Next DSB Meeting is**

on the second Monday  
of the month, 7:30-9:30 p.m.

Government Center  
12000 Gov. Ctr. Parkway  
Fairfax

Meetings are open to the public; public comment, no more than 3 minutes in length, is welcome during the public comment period. For information or to request accommodations, please call 703-324-5421, TTY 703-449-1186, or send an e-mail to [disabilityservices@fairfaxcounty.gov](mailto:disabilityservices@fairfaxcounty.gov) 5 working days prior to the meeting.